

**KRAMER ALBERTI LIM  
& TONKOVICH LLP**

Robert F. Kramer (SBN 181706)

rkramer@krameralberti.com

David Alberti (SBN 220625)

dalberti@krameralberti.com

Sal Lim (SBN 211836)

slim@krameralberti.com

Russell S. Tonkovich (SBN 233280)

rtonkovich@krameralberti.com

577 Airport Blvd, Suite 250

Burlingame, CA. 94010

Tel: 650 825-4300

Fax: 650 460-8443

Attorneys for Plaintiff

Polaris PowerLED Technologies, LLC

**QUINN EMANUEL URQUHART  
& SULLIVAN LLP**

Zachariah Summers (SBN 255284)

zachsummers@quinnemanuel.com

865 S. Figueroa St., 10th Floor

Los Angeles, CA 90017

Tel: 213 443-3000

Fax: 213 443-3100

[Additional counsel listed on signature  
page]

UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

POLARIS POWERLED TECHNOLOGIES,  
LLC,

Plaintiff,

v.

VIZIO, INC., HON HAI PRECISION  
INDUSTRY CO., LTD. D/B/A FOXCONN  
TECHNOLOGY GROUP, COMPETITION  
TEAM TECHNOLOGY USA INC., TOP  
VICTORY ELECTRONICS (TAIWAN) CO.  
LTD., TOP VICTORY INVESTMENTS  
LTD., TPV TECHNOLOGY LTD., TPV  
INTERNATIONAL (USA), INC., TREND  
SMART AMERICA, LTD., INNOLUX  
CORP., INNOLUX USA, INC., AMTRAN  
TECHNOLOGY CO., LTD., AMTRAN  
LOGISTICS, INC., and NEWEGG, INC.,

Defendants.

Case No. 2:23-cv-03478-GW-PDx

**STIPULATED PROTECTIVE  
ORDER**

1. PURPOSES AND LIMITATIONS

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. This Order does not confer blanket protections on all disclosures or responses to discovery and the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles.

2. DEFINITIONS

2.1 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this Order.

2.2 Counsel: Outside Counsel of Record (as well as their support staff).

2.3 Designating Party: a Party or Non-Party that designates information or items that it produces in disclosures or in responses to discovery as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE.”

2.4 Disclosure or Discovery Material: all items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including, among other things, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery in this matter.

2.5 Expert: a person with specialized knowledge or experience in a matter pertinent to the litigation who (1) has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this action, (2) is not a past or current employee of a Party, and (3) at the time of retention, is not anticipated to become an employee of a Party.

2.6 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items: extremely sensitive “Confidential Information or Items,” disclosure of which to another Party or Non-Party would create a substantial risk of

1 serious harm that could not be avoided by less restrictive means. For clarity this  
 2 designation shall include, at least, a Designating Party's (1) non-public financial  
 3 information, (2) employee's non-public personal information, and (3) non-public  
 4 commercial agreements, including license agreements.

5 2.7 "HIGHLY CONFIDENTIAL – SOURCE CODE" Information or  
 6 Items: extremely sensitive "Confidential Information or Items" representing  
 7 computer code and associated comments and revision histories, formulas,  
 8 engineering specifications, or schematics that define or otherwise describe in detail  
 9 the algorithms or structure of software or hardware designs, disclosure of which to  
 10 another Party or Non-Party would create a substantial risk of serious harm that  
 11 could not be avoided by less restrictive means.

12 2.8 Non-Party: any natural person, partnership, corporation, association, or  
 13 other legal entity not named as a Party to this action.

14 2.9 Outside Counsel of Record: attorneys who are not employees of a  
 15 party to this action but are retained to represent or advise a party to this action and  
 16 have appeared in this action on behalf of that party or are affiliated with a law firm  
 17 which has appeared on behalf of that party.

18 2.10 Party: any party to this action, including all of its officers, directors,  
 19 employees, consultants, retained experts, and Outside Counsel of Record (and their  
 20 support staffs).

21 2.11 Producing Party: a Party or Non-Party that produces Disclosure or  
 22 Discovery Material in this action.

23 2.12 Professional Vendors: persons or entities that provide litigation  
 24 support services (e.g., photocopying, videotaping, translating, preparing exhibits or  
 25 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
 26 and their employees and subcontractors.

27 2.13 Protected Material: any Disclosure or Discovery Material that is  
 28 designated as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" or  
 "HIGHLY CONFIDENTIAL – SOURCE CODE."

1           2.14 Receiving Party: a Party that receives Disclosure or Discovery  
2 Material from a Producing Party.

3           3. SCOPE

4           The protections conferred by this Order cover not only Protected Material (as  
5 defined above), but also (1) any information copied or extracted from Protected  
6 Material; (2) all copies, excerpts, summaries, or compilations of Protected Material;  
7 and (3) any testimony, conversations, or presentations by Parties or their Counsel  
8 that might reveal Protected Material. However, the protections conferred by this  
9 Order do not cover the following information: (a) any information that is in the  
10 public domain at the time of disclosure to a Receiving Party or becomes part of the  
11 public domain after its disclosure to a Receiving Party as a result of publication not  
12 involving a violation of this Order, including becoming part of the public record  
13 through trial or otherwise; and (b) any information known to the Receiving Party  
14 prior to the disclosure or obtained by the Receiving Party after the disclosure from a  
15 source who obtained the information lawfully and under no obligation of  
16 confidentiality to the Designating Party. Any use of Protected Material at trial shall  
17 be governed by a separate agreement or order.

18           4. DURATION

19           Even after final disposition of this litigation, the confidentiality obligations  
20 imposed by this Order shall remain in effect until a Designating Party agrees  
21 otherwise in writing or a court order otherwise directs. Final disposition shall be  
22 deemed to be the later of (1) dismissal of all claims and defenses in this action, with  
23 or without prejudice; and (2) final judgment herein after the completion and  
24 exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,  
25 including the time limits for filing any motions or applications for extension of time  
26 pursuant to applicable law.

27           5. DESIGNATING PROTECTED MATERIAL

28           5.1 Exercise of Restraint and Care in Designating Material for Protection.

Each Party or Non-Party that designates information or items for protection under this Order must take care to limit any such designation to specific material that qualifies under the appropriate standards. To the extent it is practical to do so, the Designating Party must designate for protection only those parts of material, documents, items, or oral or written communications that qualify – so that other portions of the material, documents, items, or communications for which protection is not warranted are not swept unjustifiably within the ambit of this Order.

Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber or retard the case development process or to impose unnecessary expenses and burdens on other parties) expose the Designating Party to sanctions.

If it comes to a Designating Party's attention that information or items that it designated for protection do not qualify for protection at all or do not qualify for the level of protection initially asserted, that Designating Party must promptly notify all other Parties that it is withdrawing the mistaken designation.

5.2 Manner and Timing of Designations. Except as otherwise provided in this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so designated before the material is disclosed or produced.

Designation in conformity with this Order requires:

(a) for information in documentary form (e.g., paper or electronic documents, transcripts of depositions or other pretrial or trial proceedings), that the Producing Party affix the legend "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" or "HIGHLY CONFIDENTIAL – SOURCE CODE" to each page that contains protected material. If only a portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins) and must specify,

1 for each portion, the level of protection being asserted.

2 A Party or Non-Party that makes original documents or materials available  
3 for inspection need not designate them for protection until after the inspecting Party  
4 has indicated which material it would like copied and produced. During the  
5 inspection and before the designation, all of the material made available for  
6 inspection shall be deemed “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
7 ONLY.” After the inspecting Party has identified the documents it wants copied  
8 and produced, the Producing Party must determine which documents, or portions  
9 thereof, qualify for protection under this Order. Then, before producing the  
10 specified documents, the Producing Party must affix the appropriate legend  
11 (“HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY  
12 CONFIDENTIAL – SOURCE CODE”) to each page that contains Protected  
13 Material. If only a portion or portions of the material on a page qualifies for  
14 protection, the Producing Party also must clearly identify the protected portion(s)  
15 (e.g., by making appropriate markings in the margins) and must specify, for each  
16 portion, the level of protection being asserted.

17 (b) for testimony given in deposition or in other pretrial or trial proceedings,  
18 that the Designating Party identify on the record, before the close of the deposition,  
19 hearing, or other proceeding, all protected testimony and specify the level of  
20 protection being asserted. When it is impractical to identify separately each portion  
21 of testimony that is entitled to protection and it appears that substantial portions of  
22 the testimony may qualify for protection, the Designating Party may invoke on the  
23 record (before the deposition, hearing, or other proceeding is concluded) a right to  
24 have up to 21 days to identify the specific portions of the testimony as to which  
25 protection is sought and to specify the level of protection being asserted. Only those  
26 portions of the testimony that are appropriately designated for protection within the  
27 21 days shall be covered by the provisions of this Protective Order. Alternatively, a  
28 Designating Party may specify, at the deposition or up to 21 days afterwards if that  
period is properly invoked, that the entire transcript shall be treated as “HIGHLY

CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

Parties shall give the other parties notice if they reasonably expect a deposition, hearing, or other proceeding to include Protected Material so that the other parties can ensure that only authorized individuals who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A) are present at those proceedings. The use of a document as an exhibit at a deposition shall not in any way affect its designation as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

Transcripts containing Protected Material shall have an obvious legend on the title page that the transcript contains Protected Material, and the title page shall be followed by a list of all pages (including line numbers as appropriate) that have been designated as Protected Material and the level of protection being asserted by the Designating Party. The Designating Party shall inform the court reporter of these requirements. Any transcript that is prepared before the expiration of a 21-day period for designation shall be treated during that period as if it had been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” in its entirety unless otherwise agreed. After the expiration of that period, the transcript shall be treated only as actually designated.

(c) for information produced in some form other than documentary and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information or item is stored the legend “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE.” If only a portion or portions of the information or item warrant protection, the Producing Party, to the extent practicable, shall identify the protected portion(s) and specify the level of protection being asserted.

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the Designating Party’s right to secure protection under this Order for such



1 material. Upon timely correction of a designation, the Receiving Party must make  
2 reasonable efforts to assure that the material is treated in accordance with the  
3 provisions of this Order.

4 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

5 6.1 Timing of Challenges. Any Party or Non-Party may challenge a  
6 designation of confidentiality at any time. Unless a prompt challenge to a  
7 Designating Party's confidentiality designation is necessary to avoid foreseeable,  
8 substantial unfairness, unnecessary economic burdens, or a significant disruption or  
9 delay of the litigation, a Party does not waive its right to challenge a confidentiality  
10 designation by electing not to mount a challenge promptly after the original  
11 designation is disclosed.

12 6.2 Meet and Confer. The Challenging Party shall initiate the dispute  
13 resolution process by providing written notice of each designation it is challenging  
14 and describing the basis for each challenge. To avoid ambiguity as to whether a  
15 challenge has been made, the written notice must recite that the challenge to  
16 confidentiality is being made in accordance with this specific paragraph of the  
17 Protective Order. The parties shall attempt to resolve each challenge in good faith  
18 and must begin the process by conferring directly (in voice to voice dialogue; other  
19 forms of communication are not sufficient) within 14 days of the date of service of  
20 notice. In conferring, the Challenging Party must explain the basis for its belief that  
21 the confidentiality designation was not proper and must give the Designating Party  
22 an opportunity to review the designated material, to reconsider the circumstances,  
23 and, if no change in designation is offered, to explain the basis for the chosen  
24 designation. A Challenging Party may proceed to the next stage of the challenge  
25 process only if it has engaged in this meet and confer process first or establishes  
26 that the Designating Party is unwilling to participate in the meet and confer process  
27 in a timely manner.

28 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without  
court intervention, the Challenging Party may file a motion challenging a



1 confidentiality designation within 14 days of the parties agreeing that the meet and  
 2 confer process will not resolve their dispute, if there is good cause for doing so,  
 3 including a challenge to the designation of a deposition transcript or any portions  
 4 thereof. Any motion brought pursuant to this provision must be accompanied by a  
 5 competent declaration affirming that the movant has complied with the meet and  
 6 confer requirements imposed by the preceding paragraph.

7 The burden of persuasion in any such challenge proceeding shall be on the  
 8 Designating Party. Frivolous challenges and those made for an improper purpose  
 9 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may  
 10 expose the Challenging Party to sanctions. All parties shall continue to afford the  
 11 material in question the level of protection to which it is entitled under the  
 12 Producing Party's designation until the court rules on the challenge.

### 13 7. ACCESS TO AND USE OF PROTECTED MATERIAL

14 7.1 Basic Principles. A Receiving Party may use Protected Material that is  
 15 disclosed or produced by another Party or by a Non-Party in connection with this  
 16 case only for prosecuting, defending, or attempting to settle this litigation. Such  
 17 Protected Material may be disclosed only to the categories of persons and under the  
 18 conditions described in this Order. When the litigation has been terminated, a  
 19 Receiving Party must comply with the provisions of section 15 below (FINAL  
 20 DISPOSITION).

21 Protected Material must be stored and maintained by a Receiving Party at a  
 22 location and in a secure manner that ensures that access is limited to the persons  
 23 authorized under this Order.

24 7.2. Intentionally blank.

25 7.3 Disclosure of "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
 26 ONLY" and "HIGHLY CONFIDENTIAL – SOURCE CODE" Information or  
 27 Items. Unless otherwise ordered by the court or permitted in writing by the  
 28 Designating Party, a Receiving Party may disclose any information or item  
 designated "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" or

1 “HIGHLY CONFIDENTIAL – SOURCE CODE” only to:

2 (a) the Receiving Party’s Outside Counsel of Record in this action, as well  
3 as employees of said Outside Counsel of Record to whom it is reasonably necessary  
4 to disclose the information for this litigation and who have signed the  
5 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit  
6 A;

7 (b) Experts of the Receiving Party (1) to whom disclosure is reasonably  
8 necessary for this litigation, (2) who have signed the “Acknowledgment and  
9 Agreement to Be Bound” (Exhibit A), and (3) as to whom the procedures set forth  
10 in paragraph 7.4(a)(2), below, have been followed;

11 (c) the court and its personnel;

12 (d) court reporters and their staff, professional jury or trial consultants,  
13 and Professional Vendors to whom disclosure is reasonably necessary for this  
14 litigation and who have signed the “Acknowledgment and Agreement to Be  
15 Bound” (Exhibit A); and

16 (e) the author or recipient of a document containing the information or a  
17 custodian or other person who otherwise possessed or knew the information.

18 (f) during their depositions, witnesses in the action to whom disclosure is  
19 reasonably necessary and who have signed the “Acknowledgment and Agreement  
20 to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or  
21 ordered by the court. Pages of transcribed deposition testimony or exhibits to  
22 depositions that reveal Protected Material must be separately bound by the court  
23 reporter and may not be disclosed to anyone except as permitted under this  
24 Protective Order.

25 7.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY  
26 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY  
27 CONFIDENTIAL – SOURCE CODE” Information or Items to Experts.

28 (a) Unless otherwise ordered by the court or agreed to in writing by the  
Designating Party, a Party that seeks to disclose to an Expert (as defined in this

Order) any information or item that has been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE” pursuant to paragraph 7.3(c) first must make a written request to the Designating Party that (1) requesting permission to disclose to the Expert “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE” information, (2) sets forth the full name of the Expert and the city and state of his or her primary residence, (3) attaches a copy of the Expert’s current resume, (4) identifies the Expert’s current employer(s), (5) identifies each person or entity from whom the Expert has received compensation or funding for work in his or her areas of expertise or to whom the expert has provided professional services, including in connection with a litigation, at any time during the preceding five years,<sup>1</sup> and (6) identifies (by name and number of the case, filing date, and location of court) any litigation in connection with which the Expert has offered expert testimony, including through a declaration, report, or testimony at a deposition or trial, during the preceding five years.

(b) A Party that makes a request and provides the information specified in the preceding respective paragraphs may disclose the subject Protected Material to the identified Expert unless, within 7 days of delivering the request, the Party receives a written objection from the Designating Party. Any such objection must set forth in detail the grounds on which it is based.

(c) A Party that receives a timely written objection must meet and confer with the Designating Party (through direct voice to voice dialogue) to try to resolve the matter by agreement within five days of the written objection. If no agreement

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<sup>1</sup> If the Expert believes any of this information is subject to a confidentiality obligation to a third-party, then the Expert should provide whatever information the Expert believes can be disclosed without violating any confidentiality agreements, and the Party seeking to disclose to the Expert shall be available to meet and confer with the Designating Party regarding any such engagement.

1 is reached, the Party seeking to make the disclosure to the Expert may file a motion  
 2 seeking permission from the court to do so. Any such motion must describe the  
 3 circumstances with specificity, set forth in detail the reasons why disclosure to the  
 4 Expert is reasonably necessary, assess the risk of harm that the disclosure would  
 5 entail, and suggest any additional means that could be used to reduce that risk. In  
 6 addition, any such motion must be accompanied by a competent declaration  
 7 describing the parties' efforts to resolve the matter by agreement (i.e., the extent  
 8 and the content of the meet and confer discussions) and setting forth the reasons  
 9 advanced by the Designating Party for its refusal to approve the disclosure.

10 In any such proceeding, the Party opposing disclosure to the Expert shall  
 11 bear the burden of proving that the risk of harm that the disclosure would entail  
 12 (under the safeguards proposed) outweighs the Receiving Party's need to disclose  
 13 the Protected Material to its Expert.

#### 14 8. PROSECUTION BAR

15 Absent written consent from the Producing Party, any individual who  
 16 receives access to "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY"  
 17 or "HIGHLY CONFIDENTIAL – SOURCE CODE" information shall not be  
 18 involved in the prosecution of patents or patent applications relating to the subject  
 19 matter of this action, including without limitation the patents asserted in this action  
 20 and any patent or application claiming priority to or otherwise related to the patents  
 21 asserted in this action, before any foreign or domestic agency, including the United  
 22 States Patent and Trademark Office ("the Patent Office"). For purposes of this  
 23 paragraph, "prosecution" includes directly or indirectly drafting, amending,  
 24 advising, or otherwise affecting the scope or maintenance of patent claims. To  
 25 avoid any doubt, "prosecution" as used in this paragraph does not include  
 26 representing a party in which a patent is challenged before a domestic or foreign  
 27 agency (including, but not limited to, a reissue protest, *ex parte* reexamination or  
 28 *inter partes* reexamination). This Prosecution Bar shall begin when access to  
 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" or "HIGHLY

1 CONFIDENTIAL – SOURCE CODE” information is first received by the affected  
2 individual and shall end two (2) years after final termination of this action.

3 9. SOURCE CODE

4 (a) To the extent production of source code becomes necessary in this  
5 case, a Producing Party may designate source code as “HIGHLY CONFIDENTIAL  
6 – SOURCE CODE” if it comprises or includes confidential, proprietary or trade  
7 secret source code.

8 (b) Protected Material designated as “HIGHLY CONFIDENTIAL –  
9 SOURCE CODE” shall be subject to all of the protections afforded to “HIGHLY  
10 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information, including the  
11 Prosecution Bar set forth in Paragraph 8, and may be disclosed only to the  
12 individuals to whom “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
13 ONLY” information may be disclosed, as set forth in Paragraphs 7.3 and 7.4.

14 (c) Any source code produced in discovery shall be made available for  
15 inspection, in a format allowing it to be reasonably reviewed and searched, during  
16 normal business hours or at other mutually agreeable times, at a mutually agreed-  
17 upon office of the Producing Party’s counsel. The source code shall be made  
18 available for inspection on a secured computer in a secured room without Internet  
19 access or network access to other computers, and the Receiving Party shall not  
20 copy, remove, or otherwise transfer any portion of the source code onto any  
21 recordable media or recordable device. The Producing Party may visually monitor  
22 the activities of the Receiving Party’s representatives during any source code  
23 review, but only to ensure that there is no unauthorized recording, copying, or  
24 transmission of the source code, and shall allow for conferences between the  
25 Receiving Party’s representatives without interference so long as those conferences  
26 fall within and abide by the rules and restrictions set forth herein.

27 (d) The Receiving Party may request paper copies of limited portions of  
28 source code that are reasonably necessary for the preparation of court filings,  
pleadings, expert reports, or other papers, or for deposition or trial, but shall not

1 request paper copies for the purpose of reviewing the source code other than  
 2 electronically as set forth in paragraph (c) in the first instance. The Producing Party  
 3 shall provide all such source code in paper form within 48 hours, including Bates  
 4 numbers and the label “HIGHLY CONFIDENTIAL – SOURCE CODE.” The  
 5 Producing Party may challenge the amount of source code requested in hard copy  
 6 form pursuant to the dispute resolution procedure and timeframes set forth in  
 7 Paragraph 6 whereby the Producing Party is the “Challenging Party” and the  
 8 Receiving Party is the “Designating Party” for purposes of dispute resolution.

9 (e) The Receiving Party shall maintain a record of any individual who has  
 10 inspected any portion of the source code in electronic or paper form. The Receiving  
 11 Party shall maintain all paper copies of any printed portions of the source code in a  
 12 secured, locked area. The Receiving Party shall not create any electronic or other  
 13 images of the paper copies and shall not convert any of the information contained in  
 14 the paper copies into any electronic format. The Receiving Party shall only make  
 15 additional paper copies if such additional copies are (1) necessary to prepare court  
 16 filings, pleadings, or other papers (including a testifying expert’s expert report), (2)  
 17 necessary for deposition, or (3) otherwise necessary for the preparation of its case.  
 18 Any paper copies used during a deposition shall be retrieved by the Producing Party  
 19 at the end of each day and must not be given to or left with a court reporter or any  
 20 other unauthorized individual.

21 10. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED  
 22 IN OTHER LITIGATION

23 If a Party is served with a subpoena or a court order issued in other litigation  
 24 that compels disclosure of any information or items designated in this action as  
 25 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY  
 26 CONFIDENTIAL – SOURCE CODE,” that Party must:

27 (a) promptly notify in writing the Designating Party. Such notification  
 28 shall include a copy of the subpoena or court order;

(b) promptly notify in writing the party who caused the subpoena or order



1 to issue in the other litigation that some or all of the material covered by the  
 2 subpoena or order is subject to this Protective Order. Such notification shall include  
 3 a copy of this Protective Order; and

4 (c) cooperate with respect to all reasonable procedures sought to be  
 5 pursued by the Designating Party whose Protected Material may be affected.<sup>2</sup>

6 If the Designating Party timely seeks a protective order, the Party served with  
 7 the subpoena or court order shall not produce any information designated in this  
 8 action as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or  
 9 “HIGHLY CONFIDENTIAL – SOURCE CODE” before a determination by the  
 10 court from which the subpoena or order issued, unless the Party has obtained the  
 11 Designating Party’s permission. The Designating Party shall bear the burden and  
 12 expense of seeking protection in that court of its confidential material – and nothing  
 13 in these provisions should be construed as authorizing or encouraging a Receiving  
 14 Party in this action to disobey a lawful directive from another court.

15 11. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE  
 16 PRODUCED IN THIS LITIGATION

17 (a) The terms of this Order are applicable to information produced by a  
 18 Non-Party in this action and designated as “HIGHLY CONFIDENTIAL –  
 19 ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE  
 20 CODE.” Such information produced by Non-Parties in connection with this  
 21 litigation is protected by the remedies and relief provided by this Order. Nothing in  
 22 these provisions should be construed as prohibiting a Non-Party from seeking  
 23 additional protections.

24 (b) In the event that a Party is required, by a valid discovery request, to  
 25 \_\_\_\_\_  
 26

27 <sup>2</sup> The purpose of imposing these duties is to alert the interested parties to the  
 28 existence of this Protective Order and to afford the Designating Party in this case an  
 opportunity to try to protect its confidentiality interests in the court from which the  
 subpoena or order issued.



1 produce a Non-Party's confidential information in its possession, and the Party is  
 2 subject to an agreement with the Non-Party not to produce the Non-Party's  
 3 confidential information, then the Party shall:

4 1. promptly notify in writing the Requesting Party and the Non-  
 5 Party that some or all of the information requested is subject to a confidentiality  
 6 agreement with a Non-Party;

7 2. promptly provide the Non-Party with a copy of the Protective  
 8 Order in this litigation, the relevant discovery request(s), and a reasonably specific  
 9 description of the information requested; and

10 3. make the information requested available for inspection by the  
 11 Non-Party.

12 (c) If the Non-Party fails to object or seek a protective order from this  
 13 court within 14 days of receiving the notice and accompanying information, the  
 14 Receiving Party may produce the Non-Party's confidential information responsive  
 15 to the discovery request. If the Non-Party timely seeks a protective order, the  
 16 Receiving Party shall not produce any information in its possession or control that  
 17 is subject to the confidentiality agreement with the Non-Party before a  
 18 determination by the court.<sup>3</sup> Absent a court order to the contrary, the Non-Party  
 19 shall bear the burden and expense of seeking protection in this court of its Protected  
 20 Material.

## 21 12. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

22 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
 23 Protected Material to any person or in any circumstance not authorized under this  
 24 Protective Order, the Receiving Party must immediately (a) notify in writing the  
 25 Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve  
 26 \_\_\_\_\_

27  
 28 <sup>3</sup> The purpose of this provision is to alert the interested parties to the existence of  
 confidentiality rights of a Non-Party and to afford the Non-Party an opportunity to  
 protect its confidentiality interests in this court.

1 all unauthorized copies of the Protected Material, (c) inform the person or persons  
 2 to whom unauthorized disclosures were made of all the terms of this Order, and (d)  
 3 request such person or persons to execute the “Acknowledgment and Agreement to  
 4 Be Bound” that is attached hereto as Exhibit A.

5 13. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE  
 6 PROTECTED MATERIAL

7 When a Producing Party gives notice to Receiving Parties that certain  
 8 inadvertently produced material is subject to a claim of privilege or other  
 9 protection, the obligations of the Receiving Parties are those set forth in Federal  
 10 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify  
 11 whatever procedure may be established in an e-discovery order that provides for  
 12 production without prior privilege review. Pursuant to Federal Rule of Evidence  
 13 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure  
 14 of a communication or information covered by the attorney-client privilege or work  
 15 product protection, the parties may incorporate their agreement in a stipulated  
 16 protective order submitted to the court.

17 14. MISCELLANEOUS

18 14.1 Right to Further Relief. Nothing in this Order abridges the right of any  
 19 person to seek its modification by the court in the future.

20 14.2 Right to Assert Other Objections. No Party waives any right it  
 21 otherwise would have to object to disclosing or producing any information or item  
 22 on any ground not addressed in this Protective Order. Similarly, no Party waives  
 23 any right to object on any ground to use in evidence of any of the material covered  
 24 by this Protective Order.

25 14.3 Export Control. Disclosure of Protected Material shall be subject to all  
 26 applicable laws and regulations relating to the export of technical data contained in  
 27 such Protected Material, including the release of such technical data to foreign  
 28 persons or nationals in the United States or elsewhere. The Producing Party shall be  
 responsible for identifying any such controlled technical data, and the Receiving

1 Party shall take measures necessary to ensure compliance.

2 14.4 Filing Protected Material. Without written permission from the  
3 Designating Party or a court order secured after appropriate notice to all interested  
4 persons, a Party may not file in the public record in this action any Protected  
5 Material.

6 15. FINAL DISPOSITION

7 Within 60 days after the final disposition of this action, as defined in  
8 paragraph 4, each Receiving Party must return all Protected Material to the  
9 Producing Party or destroy such material. As used in this subdivision, “all Protected  
10 Material” includes all copies, abstracts, compilations, summaries, and any other  
11 format reproducing or capturing any of the Protected Material. Whether the  
12 Protected Material is returned or destroyed, the Receiving Party must submit a  
13 written certification to the Producing Party (and, if not the same person or entity, to  
14 the Designating Party) by the 60 day deadline that (1) identifies (by category, where  
15 appropriate) all the Protected Material that was returned or destroyed and (2)  
16 affirms that the Receiving Party has not retained any copies, abstracts,  
17 compilations, summaries or any other format reproducing or capturing any of the  
18 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an  
19 archival copy of all pleadings, motion papers, trial, deposition, and hearing  
20 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert  
21 reports, attorney work product, and consultant and expert work product, even if  
22 such materials contain Protected Material. Any such archival copies that contain or  
23 constitute Protected Material remain subject to this Protective Order as set forth in  
24 Section 4.

25 **IT IS SO STIPULATED**, through Counsel of Record.

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27  
28

1 Dated: November 13, 2023

By: /s/ Jeremiah A. Armstrong

2 Robert F. Kramer (SBN 181706)

3 rkramer@krameralberti.com

4 David Alberti (SBN 220625)

5 dalberti@krameralberti.com

6 Sal Lim (SBN 211836)

7 slim@krameralberti.com

8 Russell S. Tonkovich (SBN 233280)

9 rtonkovich@krameralberti.com

10 Jeremiah A. Armstrong (SBN 253705)

11 jarmstrong@krameralberti.com

12 Aidan Brewster (SBN 319691)

13 abrewster@krameralberti.com

14 KRAMER ALBERTI LIM

15 & TONKOVICH LLP

16 577 Airport Blvd, Suite 250

17 Burlingame, CA. 94010

18 Tel: 650 825-4300/Fax: 650 460-8443

19 *Attorneys for Plaintiff*

20 Polaris PowerLED Technologies, LLC

21

22

23

24

25

26

27

28

1 Dated: November 13, 2023

By: /s/ Zachariah Summers

2 Zachariah Summers  
3 zachsummers@quinnemanuel.com  
4 QUINN EMANUEL URQUHART  
& SULLIVAN, LLP  
5 865 S. Figueroa St., 10th Floor  
6 Los Angeles, California 90017  
7 Telephone: (213) 443-3000  
8 Facsimile: (213) 443-3100  
Richard W. Erwine  
richarderwine@quinnemanuel.com

9  
10 QUINN EMANUEL URQUHART  
& SULLIVAN, LLP  
11 51 Madison Ave., 22nd Floor  
12 New York, NY 10010  
13 Telephone: (212) 849-7000  
14 Facsimile: (212) 849-7100  
Yunzhi L. Lin  
leonlin@quinnemanuel.com

15  
16 QUINN EMANUEL URQUHART  
& SULLIVAN, LLP  
17 1200 Abernathy Road, Suite 1500  
18 Atlanta, GA 30328  
19 Telephone: (404) 482-3502  
Facsimile: (404) 681-8290

20 *Attorneys for Defendants*  
21 VIZIO, Inc., Top Victory Electronics  
22 (Taiwan) Co. Ltd., Top Victory  
23 Investments Ltd., TPV Technology Ltd.,  
24 TPV International (USA), Inc. Trend  
25 Smart America, Ltd., Innolux Corp.,  
26 Innolux USA Inc., AmTran Technology  
27 Co., Ltd., and AmTran Logistics, Inc.  
28

1 Dated: November 13, 2023

By: /s/ Elizabeth Weiskopf

2 Theodore J. Angelis  
3 theo.angelis@klgates.com  
4 Jay C. Chiu  
5 Jay.Chiu@klgates.com  
6 Elizabeth Weiskopf  
7 Elizabeth.weiskopf@klgates.com  
8 K&L GATES LLP  
9 925 Fourth Avenue  
10 Suite 2900  
11 Seattle, Washington 98104-1158  
12 Tele: 206 623-7580/Fax: 206 623-7022

13 *Attorneys for Defendants*  
14 Hon Hai Precision Industry Co., Ltd.  
15 d/b/a Foxconn Technology Group and  
16 Competition Team Technology USA Inc.

17 Dated: November 13, 2023

By: /s/ Hannah L. Cannom

18 WALKER STEVENS CANNOM LLP  
19 Bethany M. Stevens (SBN 245672)  
20 bstevens@wscllp.com  
21 Hannah L. Cannom (SBN 245635)  
22 hcannom@wscllp.com  
23 500 Molino Street, Suite 118  
24 Los Angeles, California 90013  
25 Tel: 213 337-4551/Fax: 213 406-4906

26 *Attorneys for Defendant*  
27 Newegg, Inc.

28  
ATTESTATION: All other signatories listed, and on whose behalf the filing  
is submitted, concur in the filing's content and have authorized the filing.

/s/ Jeremiah A. Armstrong

1 **IT IS ORDERED** that the foregoing Agreement is approved.

2 DATED: November 22, 2023

*Patricia Donahue*

3 Hon. Patricia Donahue  
4 United States Magistrate Judge  
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EXHIBIT AACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of  
 \_\_\_\_\_ [print or type full address], declare under penalty of perjury  
 that I have read in its entirety and understand the Protective Order that was issued by  
 the United States District Court for the Central District of California on \_\_\_\_\_  
 [date] in the case of *Polaris PowerLED Technologies, LLC, v. VIZIO, Inc., et al.*,  
 Case No. 2:23-cv-03478-GW-PDx. I agree to comply with and to be bound by all the  
 terms of this Protective Order, and I understand and acknowledge that failure to so  
 comply could expose me to sanctions and punishment in the nature of contempt. I  
 solemnly promise that I will not disclose in any manner any information or item that  
 is subject to this Protective Order to any person or entity except in strict compliance  
 with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District  
 Court for the Central District of California for the purpose of enforcing the terms of  
 this Protective Order, even if such enforcement proceedings occur after termination  
 of this action.

I hereby appoint \_\_\_\_\_ [print or type full  
 name] of \_\_\_\_\_ [print or type full address  
 and telephone number] as my California agent for service of process in connection  
 with this action or any proceedings related to enforcement of this Protective Order.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_  
 [printed name]

Signature: \_\_\_\_\_  
 [signature]